

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION

STEVEN WHITE

PLAINTIFF

V.

CIVIL ACTION NO.4:05CV-155-WAP-JAD

MDOC MAINTENANCE, ET AL

DEFENDANTS

**REPORT AND RECOMMENDATION**

On October 6, 2005, plaintiff, an inmate of the Mississippi Department of Corrections, appeared before the court for a hearing pursuant to *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985) to determine if there exists a justiciable basis for his claim filed pursuant to 42 U.S.C. §1983.

White complains that the ceiling tile collapsed and fell on him while he was taking a shower, resulting in injuries to him. He complains about the medical care he received for his injuries. He has named the Mississippi Department of Corrections Maintenance Department and Medical Department.

The claim for the collapse of the ceiling tile is a claim for simple negligence, and is not a claim under § 1983. While he was not pleased with his medical care, he does not dispute that he was taken to the medical unit at the time of the injury and in follow up. He was x-rayed and given Ibuprofen. The undersigned concludes that White has failed to show "deliberate indifference to a serious medical need." Estelle v. Gamble, 429 U.S. 97, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976).

Accordingly it is recommended that the complaint be dismissed with prejudice.

The parties are referred to 28 U.S.C. 636(b)(1) and Local Rule 72.2(D) for the appropriate procedure in the event any party desires to file objections to these findings and recommendations. Objections are required to be in writing and must be filed within ten days of this date. Failure to file

written objections to the proposed finding and recommendations contained in this report within ten days from the date of filing will bar an aggrieved party from challenging on appeal both the proposed factual findings and the proposed legal conclusions accepted by the district court *Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

Plaintiff is directed to acknowledge receipt of this report and recommendation by signing the enclosed acknowledgment form and returning it to the court within ten days of this date. Plaintiff is warned that failure to comply with the requirements of this paragraph may lead to the dismissal of this lawsuit under F.R.Civ.P. 41(b) for failure to prosecute and for failure to comply with an order of the court.

This the 12<sup>th</sup> day of October, 2005.

/s/ JERRY A. DAVIS  
UNITED STATES MAGISTRATE JUDGE